

CITY OF MUSKEGON  
PLANNING COMMISSION  
REGULAR MEETING  
MINUTES

October 16, 2003

P. Sartorius called the meeting to order at 4:04 p.m., and roll was taken.

MEMBERS PRESENT: B. Mazade, S. Warmington, P. Sartorius, T. Johnson, B. Smith, T. Michalski, L. Spataro

MEMBERS ABSENT: J. Aslakson, excused; T. Harryman, excused.

STAFF PRESENT: D. Steenhagen, C. Brubaker-Clarke, H. Griffith

OTHERS PRESENT: N. Cunningham, 3151 Beach; S. Pleimling, Lakeside Neighborhood Assoc. representative; J. Benedict, 2164 LeTart; J. Harris, 4247 Orchard; S. Holdeman, 2011 LeTart; N. McCarthy, President & CEO of Visiting Nurses; M. Teeter, representative of Hage's; J. Steinback, 1428 Lakeshore; D. Marko, President of Harbour Towne Assoc.

APPROVAL OF MINUTES

A motion to approve the minutes of the regular meeting of September 11, 2003 was made by T. Johnson, supported by T. Michalski and unanimously approved.

PUBLIC HEARINGS

Hearing; Case 2003-38: Request for a Special Use Permit for a pawn shop at 1996 W. Sherman Blvd., by Stephen E. Holdeman. D. Steenhagen presented the staff report. This property is located at the northwest corner of Sherman Blvd. and McCracken St. The property measures 85 feet by 125 feet and contains an existing commercial building. This property was recently rezoned from B-1, Limited Business to B-2, Convenience & Comparison Business, in response to an enforcement action on the property regarding a pawn shop which has located there. Pawn shops are not a permitted use in the B-1 district, however secondhand stores are allowed in the B-2 district, under Special Use Permit, with certain conditions. The applicant is asking that the pawn shop be able to remain. The property adjacent to the north of the subject property is a small-scale dentist office. The property adjacent to the east is residential. Across McCracken St. is Lakeshore Carpet One. Since the building is already in place, staff was only able to review the site plan in terms of how the existing site will function, for the purpose of the proposed business. Staff has reviewed the submitted site plan and has the following comments: a) The building is built right up to the sidewalk on both McCracken St. and Sherman Blvd., and therefore both front setbacks are nonconforming. b) The site plan shows the layout of the building interior, but not much detail about the outside of the site, parking area or drive entrances. c) The Zoning Ordinance requires one parking space for every 400 square feet of

usable floor area for retail stores. The gross square footage of this suite appears to be approximately 2,000 square feet, which would require 5 parking spaces. d) The site plan indicates that there is a parking lot to the north of the building. The number of spaces in the lot is not given, but staff is sure that there are more than 5 spaces in the lot, and therefore the parking meets ordinance requirements. e) There is no dumpster location shown on the site plan. If a dumpster is to be used on the property, it needs to be screened with a minimum 4-foot fence or located out of public view. f) There is existing wall signage on the building, including several real estate signs. A wall sign indicating the former tenant, Rit Music, is still in place and should be removed since that tenant is no longer in the building. The existing pawn shop has several wall signs in place on the building as well. g) No landscaping is shown for the site. Since there are no front setbacks, the Planning Commission may wish to require planters or other landscape elements, which could be incorporated into the existing storefront. The Zoning Ordinance requires that a secondhand store in the B-2 district be "located within or adjacent to an established, identifiable commercial corridor". Sherman Blvd. is a major commercial artery, although this far west most of the uses along the north side are residential. However, there are several other commercial uses as well, including Fat Jack's Ice Cream, and Lakeshore Carpet One. There are also quite a few commercial uses on the south side of the street. Staff became aware of the pawn shop originally due to an anonymous phone call complaint. The subject property is directly adjacent to the Lakeside Neighborhood and the Lakeside Neighborhood Association has spoken publicly against the pawn shop being allowed to remain located on the subject property. Staff has received one phone call regarding this case which the information from the phone call was provided to the commission members. Staff has also received 2 letters (copies provided to the commission members), the first was from Lakeside Neighborhood Assoc. and the second was from an individual. Both were in opposition of the request. If the Planning Commission were inclined to grant this request, staff would propose conditions.

B. Smith arrived at 4:09 p.m.

P. Sartorius disclosed that he had been approached by a representative of the applicant as well as a representative of the neighborhood association. He informed them both that he was unable to discuss merits of the case. N. Cunningham went over the process of how this case regarding the pawn shop came about.

S. Warmington arrived at 4:14 p.m.

N. Cunningham stated that the Harris' have spoken with the dentist's office to discuss any concerns that they may still have. They have also met with some of the surrounding neighbors. They obtained signed letters/statements from the neighbors stating that they had no problem with the pawn shop being there. The applicant is willing to change their name so "pawn shop" would be eliminated from their signage. The signs will also conform to what is allowed under the zoning ordinance. Most of the customers come from the Lakeside area. T. Johnson asked what their intent was in regards to the "Fast Cash" sign. N. Cunningham stated that it could be removed. T. Johnson asked if they would have a problem with the signage change being a condition of approval. N. Cunningham stated that they wouldn't have a problem with it and they would honor the conditions of approval. S. Pleimling read the letter that was submitted on behalf of the Lakeside Neighborhood Association. She added that the applicant had never contacted the neighborhood association regarding the pawn shop. S. Pleimling stated that the

Neighborhood Association Board had approved the letter. P. Sartorius added that the request is not for a zoning variance as indicated in the letter that she had read. This is for a Special Use Permit, which is allowed in a B-2 zoning classification. J. Benedict stated that she lives about 100 ft. from the shop and the applicant hadn't approached her. She had concerns with the upkeep of the building. She was also concerned that there may not be enough parking should all the suites become occupied. She also stated that the pawn shop was selling items to children 12 and under. J. Harris stated that he doesn't pawn, buy, or sell items to anyone under the age of 18. This is posted in his store. He is willing to do what is necessary to work with the PC and with the community. He discussed the procedures someone would go through in order to pawn an item. He sends an e-mail every other day to 62 Police Departments to see if any of the items are stolen. N. Cunningham added that each of the signed letters/statements from the neighborhood residents also include their phone numbers should they need to be contacted.

A motion to close the public hearing was made by L. Spataro, supported by B. Smith and unanimously approved.

L. Spataro had concerns as to why a 2<sup>nd</sup> hand store had to be treated differently from any other retail outlet. He gave examples of an antique store, Salvation Army, and Goodwill that each sell previously owned merchandise. He is in favor of the request. He would recommend an additional condition that all sign ordinance requirements are met. T. Johnson stated that previously they had recommended approval of the zoning change so the owner would have more options available for uses in the building. He felt that the words "pawn shop" had a stereotype that went along with it. The commission needs to look at whether or not the "pawn shop use" would be a blighting influence for the neighborhood. S. Warmington stated that he has been in the pawn shop. He went in for the first time due to the complaints he had heard. The applicant wasn't there at the time, but the employee that was working showed him the process that a person would go through when they want to pawn something. He didn't feel that this type of use was that much different than the yard sales that go on around the neighborhood. People are purchasing previously used items for cheaper prices. He does agree that the exterior of the building does need some work. P. Sartorius stated that some of the concerns were addressed when the property was rezoned. He does agree with T. Johnson that the commission does need to look at if this were blighting or a nuisance to the neighborhood. He asked staff if they are aware of any complaints about the business being a nuisance. D. Steenhagen stated that she wasn't aware of any complaints, but she could look into it if the commission wanted her to. The only complaints she would hear would have to do with zoning. P. Sartorius stated that the parking could be an issue. S. Holdeman stated that there are 4 units in the building. One of them is currently occupied whereas the other 3 are vacant. There is a residential apartment, which is up to code. P. Sartorius asked if the parking would be adequate if all the suites were occupied. D. Steenhagen stated that the parking is based on the use so it would be hard to determine the parking requirement exactly. The pawn shop needs about 5 spaces. If all the suites were filled, 10 to 15 spaces could be adequate. The residential apartment would be required to have 2 spaces. If there were to be church services at the location, this may require more parking. P. Sartorius asked why screening or buffering for the properties to the east of this wasn't suggested as a condition of approval. D. Steenhagen stated that since the building faces the properties to the east, usually this is considered enough of a buffer. T. Johnson asked that a condition be added that the words "pawn shop" be removed from the signage.

A motion that the special use permit for a pawn shop at 1996 W. Sherman Blvd. by Stephen E. Holdeman be approved, based on compliance with the City's Master Land Use Plan and conditions set forth in the City of Muskegon Zoning Ordinance based on the following conditions: 1) A revised site plan will be submitted for staff's approval and will need to contain specific site information such as the northerly and westerly setbacks, details (location, layout) of the existing parking area and the number of spaces in the parking area, locations of existing drive entrances, and any areas which are greenspace on the property. 2) If a dumpster is to be located on the property, it must be either located out of public view, or screened with a minimum four-foot screen fence. 3) The business will comply with all the provisions of the sign ordinance and not use the words "pawn shop", was made by L. Spataro, supported by B. Smith and approved with T. Johnson and P. Sartorius voting nay.

Hearing; Case 2003-39: Request to amend the Zoning Ordinance to permit an assisted living facility in the B-5, Governmental Services zoning district, by Visiting Nurse Services, Inc. D. Steenhagen presented the staff report. Staff has been contacted by Visiting Nurse Services regarding their desire to relocate in the former Hage's building on Terrace St. Their proposed uses for this building include office space, as well as a proposed hospice care facility (assisted living). The property is zoned B-3, Central Business, which allows their proposed office use, but does not allow for an assisted living type of use. In discussion with Visiting Nurses, staff did not feel that rezoning a single piece of property in the middle of Muskegon's Central Business District (CBD) was necessarily a good option. However, staff did note that the block that the Hage's building is located in does happen to be adjacent to the area currently zoned B-5, Governmental Services. Although the B-5 district also does not allow for an assisted living type of use, it does allow some uses which are variously residential in nature, such as youth homes, secure correctional facilities and single or multiple-family residential uses. The applicant is therefore asking to amend the Zoning Ordinance to allow an assisted living facility in the B-5 district. They are also asking (see next case) to rezone the Hage's property to B-5. If the Planning and City Commissions are inclined to approve these requests, and then staff would then propose that the rest of the block that Hage's is located on also be looked at for rezoning to B-5 as well, in order to keep the entire B-5 district as one contiguous area. Up until recently, the Zoning Ordinance allowed for "Hospitals, sanitariums, and convalescent or nursing homes." in the RM-1, Low Density Multiple-Family Residential, RM-2, Medium Density Multiple-Family Residential and RM-3, High Density Multiple-Family Residential zoning districts. When the ordinance was amended earlier this year to create the MC, Medical Care zoning district, all references to hospitals in other zoning districts were removed. This also effectively removed nursing home uses from any district other than the MC district. Staff plans to remedy this with a future amendment, but at this time, the only zoning district which currently permits an assisted living use is the MC district. There are only three areas zoned MC in the City, which include the three hospital campuses located within the City boundaries. Staff is unsure if an assisted living use is compatible with the purpose of the B-5 district as stated in the district's preamble. Having assisted living uses allowed within the MC district as well as the multi-family districts seems like a better place for this use. The Hage's building is located on the corner of Terrace St. and Webster Ave., which is currently a very busy corner. Staff is not sure if this is the best re-use of this building. According to Visiting Nurses, this building is the only one, which will suit their needs by being on a main corridor (for easy access for their nurses and visiting family members to the facility) and being in a safe area with a large enough building. The B-5 district is limited geographically to the east side of the downtown area and does already

contain some residential types of uses. If limited in scope and put as a special use in this district, staff is not necessarily opposed to this request. The commission members were provided with an excerpt of the zoning ordinance for the B-5 language.

T. Johnson stated that he has a conflict of interest and will be abstaining from both of the cases. L. Spataro stated that he has a problem with this because assisted living is not the same as a nursing home. D. Steenhagen stated that licensed adult foster care is allowed in different residential zoning districts. L. Spataro stated that Brinks Hall is located in a B-5 zoning district. He stated that their use is pretty much the same as what the Visiting Nurses is proposing. D. Steenhagen asked if it was also catered to adults. L. Spataro stated that it was. D. Steenhagen stated that through the years, assisted living has been classified as the same as a nursing home. L. Spataro stated that assisted living and nursing homes are completely different. He stated that Brinks Hall is adult foster care and he believes they went into their location after the B-5 zoning district was created. N. McCarthy stated that they are currently located in the Terrace Plaza building. They were informed that their rent would be drastically increasing. They are looking to purchase the Hage's building. They have been located in the downtown area for a long time and would like to remain there. She described what they would be doing. She stated that she has some site plans with her should the commission members like to view them. They would only be using 25% of the building for the residential use. Offices would occupy the other 75% of the building. They have been discussing leasing a portion of the office space with a possible tenant already. B. Smith stated that staff had felt that this was a busy corner. She asked the applicant what their plan was. N. McCarthy stated that they would be demolishing the smaller building behind Hage's and turn it into a parking lot and a courtyard. There would be limited visitors and there wouldn't be a lot of traffic. This is also along the public bus route, which would help any visitors that are unable to drive. P. Sartorius asked if their license was for skilled nursing. N. McCarthy stated that they were licensed for Hospice. L. Spataro asked how many beds they would have since staff had proposed 6. N. McCarthy stated that they have 7 on their plan, but the 6 will do. L. Spataro asked how many they would need theoretically. N. McCarthy stated that they are going for a higher standard and could have up to 9. L. Spataro clarified if that was 9 people at one time staying there. N. McCarthy stated that it was. M. Teeter stated that he had been marketing the property for about 2 years. There really hasn't been much interest. No matter what happens, Hage's will be vacating the building in November. They would like to see Visiting Nurses at the location.

A motion to close the public hearing was made by S. Warmington, supported by B. Mazade and approved with T. Johnson abstaining.

L. Spataro stated that he supports the proposed use for the building. He isn't comfortable with rezoning the property because a future user would have more uses available to them under a B-3 zoning as opposed to a B-5 zoning. He doesn't see the need to amend the ordinance or rezone the property since there would be some residential use to this as well as commercial. He felt that this use would be allowed in the B-3 zoning district. D. Steenhagen read the definition of adult foster care family home from the zoning ordinance. She stated that assisted living didn't match this definition. P. Sartorius agreed with L. Spataro that the assisted living could be a use in the B-3 zoning district. D. Steenhagen suggested amending the ordinance to add assisted living as a use and add the use to a zoning district. L. Spataro stated that Brinks Hall is pretty much identical to this use, as they also don't have any long-term residents. B. Mazade stated

that he was comfortable with this type of use. He agreed that assisted living should be defined and added to a zoning district. C. Brubaker-Clarke stated that she also had been in the meeting with Visiting Nurses. She went over what was discussed and why staff didn't feel that it was an appropriate use in a B-3 zoning district. Staff felt that the current requests were the best option. L. Spataro described the staffing levels and equipment that are needed in a nursing home as opposed to what would be needed in an assisted living center. Nursing homes have around the clock staffing and use of medical equipment. Assisted living centers don't have this. D. Steenhagen asked if the licensing of adult foster care and assisted living were similar. L. Spataro stated that they were. P. Sartorius stated that if this use was added under a SUP, then they could limit the number of beds allowed. D. Steenhagen read the definition of adult foster care from the zoning ordinance. She stated that based on the discussion here, staff can determine that assisted living is more similar to adult foster care as opposed to a nursing home.

The commission is taking no action for this request. Staff will look at defining assisted living in the ordinance as similar to adult foster care.

Hearing; Case 2003-40: Request to rezone the property located at 888 Terrace St. from B-3, Central Business to B-5, Governmental Services, by Visiting Nurse Services, Inc. D. Steenhagen presented the staff report. This request is related to the previous request and has been made by Visiting Nurse Services, Inc. in order to allow them to locate a hospice care assisted living facility in the former Hage's building. This request is based on the previous request to add assisted living facilities into the B-5 district being approved by the City Commission. The subject property is located at the corner of Terrace St. and Webster Ave. and contains the former Hage's. The Future Land Use Map shows the subject parcel to be "Downtown/Lakeshore Redevelopment Area". The Downtown/Lakeshore Redevelopment Plan states: The fourth area is the Service Center, which gives a home for community, even region-wide services and functions. Government facilities already have a distinct and positive influence on this area, and this should continue. City and County government is well represented, and state and federal government investment should be encouraged. The recent movement of the County government into the former Baker College campus is an excellent means of continuing to develop and enhance this Center. Other office and professional uses should be encouraged. Several important law firms reside in this area and similar professional activities should continue to find a home. Sensitive retail and commercial development should be encouraged, especially along the major streets. Such uses provide a transition between the surrounding residential neighborhoods and the other developing GEMS. As the Service Center further develops, linkages between the other Centers should be increased. Note that the Service Center often acts as a gateway to the Downtown. Besides for providing a beneficial home for professional, government and commercial activities, this Center functions as an important transition zone into the newly enhancing Downtown. 1) The Plan speaks to the former Baker College campus (now Muskegon County South Campus) regarding recommendations for potential uses on that site: Primary use of the facility and site should be office in orientation, as opposed to residential (individual or congregate housing whether short or long term), penal, or medical. While the City recognizes a need for such facilities, it has its fair share based on metro population, and should avoid future concentrations to help promote the Downtown's diversity and viability. 2) The Master Plan recommends for this area: Land uses within the Service Center are largely associated with, or influenced by the County Building and Baker College campus, and City Hall. All future development should compliment these uses. Staff is hesitant

to rezone any of the Central Business District to any other zoning classification. This block is adjacent to existing B-5 zoning, but the Hage's property is not directly adjacent. Rezoning just this one parcel will create one B-5 parcel in the middle of a B-3 block. If the Planning and City Commissions were inclined to grant this request, staff would recommend that the rest of this block be looked at for rezoning to B-5 as well in order to create one contiguous B-5 zone. The main difference between the B-3 and B-5 zoning districts, as regarding the current request is that the B-3 district does not allow any form of residential use, other than accessory apartments above a commercial or retail property. The B-5 district does include residential types of uses including single and multi-family, youth homes and secure correctional facilities. The commission members were provided with the zoning language for a B-3 zoning district from the zoning ordinance. Staff has received one phone call, from Jerry Horne, owner of 20 W. Muskegon Ave. He is not opposed to the rezoning and says that it will be a better use than what is there now.

A motion to close the public hearing was made by S. Warmington, supported by B. Mazade and approved with T. Johnson abstaining.

A motion that the request to rezone property at 888 Terrace St. as described in the public notice, from B-3, Central Business to B-5, Governmental Services be recommended for approval to the City Commission pursuant to the City of Muskegon Zoning Ordinance, and the determination of compliance with the intent of the City Master Land Use Plan and zoning district intent, was made by B. Mazade, supported by S. Warmington and approved with T. Johnson abstaining.

Hearing; Case 2003-41: Staff –initiated request to vacate all existing alleys in Blocks 1 through 4 of the Young & Williams Addition, within the Seaway Industrial Park. D. Steenhagen presented the staff report. The infrastructure within the new Seaway Industrial Park is now complete. Staff is beginning to market the properties located within the park. Several alleys currently exist within the blocks in the park, and staff is asking to vacate all alleys in order that these parcels can be re-configured and sold. All existing utilities have been relocated out of the alleyways and into existing streets so no City department has an objection to vacating these alleys.

B. Mazade stated that Waalkes Street was a paper street and not an improved one.

A motion to close the public hearing was made by L. Spataro, supported by T. Johnson and unanimously approved.

A motion that the vacation of all existing alleys in Blocks 1 through 4 of the Young & Williams Addition, be recommended to the City Commission for approval, based on compliance with the City's Master Land Use Plan and the City of Muskegon Zoning Ordinance based on the following condition: That any relevant City easement rights be retained, was made by S. Warmington, supported by T. Michalski and unanimously approved.

Hearing; Case 2003-42: Staff-initiated request to rezone multiple properties in the portion of the city known as Area 11b, bounded by Apple Ave., Pine St., Irwin Ave. and Peck St. D. Steenhagen gave the staff report. This case is another continuation of the 'blight fight' effort begun by the City Commission last year. This area is in between 'Area 10' and 'Area 11' and

staff was asked to look into rezoning this area in line with the previous rezonings. Staff has labeled this area as 'Area 11b' and it includes the area bounded by Apple Ave., Pine St., Irwin Ave. and Peck St. This area contains 295 parcels. Staff has conducted a land use survey and sent out letters to property owners asking them to verify that the land use we have on record for their property is correct. A land use map of Area 11b is included in this packet. Based on the land use survey and Master Plan recommendations for this area, staff is proposing to rezone many of the parcels in Area 11b. A mailing has been sent to every property owner and tenant of record, both within Area 11b and within 300 feet of the boundaries of Area 11b, informing them that this rezoning is being proposed and discussed by the Planning and City Commissions. Approximately 1,000 letters were sent out in this rezoning effort. The current zoning of most of the residential properties within Area 11b is RM-1, Low Density Multiple-Family Residential. The land use survey showed that there are many existing multi-family dwellings within the area (more so than within the previous areas rezoned). However, the majority of residential properties do contain single-family homes. Therefore, staff is proposing to rezone most of the RM-1 zoned residential properties to R-1, Single-Family Residential. Any existing multi-family units would be permitted to remain as legal nonconforming uses, but no further single-family homes would be able to be converted to multi-family units. Hartford Terrace would remain as currently zoned (RM-3). Some RT and RM-1 zoning would remain, but would be focused along Peck St. and Pine St. where many multi-family (or office) uses are concentrated and where they would act as a buffer between commercial areas and the primarily single-family area more interior to the neighborhood. The northern edge of Area 11b is currently zoned B-5, Governmental Services. Staff is not proposing any changes to this zoning. There is also some B-2 zoning in this area – staff is proposing to leave one section as B-2 but to downzone another to B-1. The commission members were provided with maps of this area. Staff had received a phone call from Robert Mixer of 1200 Ransom. He would like to keep his current zoning of RM-1 for his property. Staff has no problem with leaving this property with it's current zoning. There have been phone calls from others confirming their land use.

L. Spataro stated that 1200 Ransom has retail on the main floor with apartments on the second floor and it would be appropriate to leave this property with it's current zoning. He also felt that the block to the north of Ransom should be changed to R-1 zoning district. He added that the homes across the street on Peck had been rehabilitated from multi-family to single family homes. D. Steenhagen stated that she had left the properties north of Ransom with the current zoning since they were multi-family currently, but she would change it if the commission would like it to be changed. J. Steinback had questions as to whether or not multi-family homes would be able to remain even if the property is rezoned. P. Sartorius explained that they would be allowed unless they are vacant more than 2 years or more than 50% destroyed.

A motion to close the public hearing was made by B. Mazade, supported by S. Warmington and unanimously approved.

A motion that the request to rezone property in Area 11b as shown on the proposed map, from various zoning designations to new designations as proposed by staff be recommended for approval to the City Commission pursuant to the City of Muskegon Zoning Ordinance, and the determination of compliance with the intent of the City Master Land Use Plan and zoning district intent with the following changes: 1) 1200 Ransom would remain in the RM-1 zoning district. 2) The properties bordered by Ransom to Peck and Harford to Diane be rezoned to R-1

was made by L. Spataro, supported by S. Warmington and unanimously approved.

## OTHER

Timeline for adoption of Imagine Muskegon as an amendment to the Master Plan. P. Sartorius asked if the commission members were willing to set a date for the public hearing regarding the adoption of the amendment to the Master Plan.

A motion to set a date in January for the public hearing for the adoption of the Imagine Muskegon as an amendment to the Master Plan, was made by T. Johnson, supported by B. Mazade and unanimously approved.

Update on Harbourtowne sidewalks. D. Steenhagen gave the update. Staff and the City Attorney met and determined that the City Attorney would draft a consent special assessment agreement. Should the association decide not to sign it, then it was determined that there were 3 options available for the City to pursue. The first was to do a general special assessment. The second would be to sue the developer. The last was to do nothing. D. Marko spoke as president of the Harbourtowne Association. He stated that the PUD was established in 1990. They would like to know why it took so long to pursue the sidewalks. He stated that John Darien had thought that the sidewalks were paid for through a bond. They would like to know what the sidewalks would look like and where they would be located. Many people have underground sprinkling there and are concerned that the sidewalks would be placed in this area. B. Mazade asked D. Marko how long he had been president of the association. D. Marko stated that it had been since June 2002 and he was on the board for three years.

B. Smith and S. Warmington left at 6:12 p.m.

D. Marko asked what the sidewalks would look like. B. Mazade stated that they didn't know yet, since the sidewalks have not yet been designed but they would keep the association informed.

There being no further business, the meeting adjourned at 6:17 p.m.

hmg  
10/16/03